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Docket No. 1293.1126
MDJ
5-8-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Patent Application of:

Kyung-geun LEE et al.

Application No.: 09/603,204

Group Art Unit: 2653

Confirmation No.: 2962

Filed: June 26, 2000

Examiner: Gautam Patel

For: METHOD OF COMPENSATING FOR TILT AND/OR DEFOCUS AND APPARATUS THEREFOR

RESPONSE TO RESTRICTION REQUIREMENT

RECEIVED

MAY 07 2002

Assistant Commissioner for Patents
Washington, D.C. 20231

Technology Center 2600

Sir:

This is responsive to the Office Action mailed April 8, 2002, having a shortened period for response set to expire on May 8, 2002, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

#29,31
Applicants provisionally elect **Group II** in response to the preliminary restriction requirement set forth in the Office Action. It is noted that the Examiner has not specified which claims belong in Group II. As such, it is assumed that the Group II claims are 9-17, 29-40, and 49-57.

Further, it is assumed that at least claims 11-17, 29-40, and 51-57 of Group II are generic to both Group II and Group I in reciting compensating for tilt and/or defocus so as to be reflected by FIGs. 28-31.

II. Applicants Traverse the Requirement

In general, MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. MPEP §803 (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)-§806.04(i), §808.01(a) and §808.02). This section of the MPEP also states that for purposes of the initial requirement, a serious

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808.01(a)

burden on the Examiner may be prima facie shown if the Examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP §808.02. The Examiner has not set forth any of these criteria or any other criteria for establishing that there would be a serious burden if restriction is required.

Insofar as Group I is concerned, it is believed that claims 1-8, 18-28, and 41-48 are so closely related to elected claims 9-17, 29-40, and 49-57 of Group II that they should remain in the same application to preserve unity of the invention and to avoid any possibility of a double patenting issue arising at some later date. The elected claims 9-17, 29-40, and 49-57 are directed to compensating for a tilt and/or a defocus, whereas claims 1-8, 18-28, and 41-48 are drawn to compensating for the tilt. There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both Groups I and II in the same field of technology.

Significantly, it is noted that the Examiner has not identified different classifications for the claims in Groups I and II, which, while not conclusive on the question of restriction, is one factor set forth in the MPEP as providing evidence of different inventions. It is believed, moreover, that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Group I claims by filing a divisional application.

Further, it is noted that, in searching for prior art relevant to the claims in Group II, the Examiner will be required to research references having both tilt and/or de-focus compensation techniques. As such, it is believed that this research will inevitably require research into tilt compensation techniques relevant to the examination of the Group I claims.

Even if the Examiner considers claims 1-8, 18-28, and 41-48 to be a separate invention from claims 9-17, 29-40, and 49-57, the Applicants respectfully request the Examiner to consider claims 1-8, 18-28, and 41-48 (Group I) and 9-17, 29-40, and 49-57 (Group II) together.

III. Conclusion

Upon review of references involved in this field of technology, when considering that the Group I claims are directed to compensating for tilt, and elected claims 9-17, 29-40, and 49-57 are directed to compensating for tilt and/or defocus, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial

restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

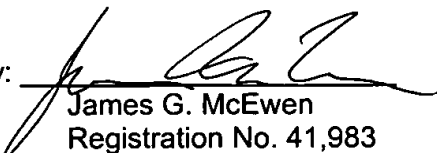
If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

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